



Comptroller General  
of the United States

Washington, D.C. 20548

*Perry*

## Decision

**Matter of:** Adrian Supply Company

**File:** B-237531.3

**Date:** August 17, 1990

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Bob Stormberg, for the protester.  
Anne B. Perry, Esq., Paul Lieberman, Esq. and  
John F. Mitchell, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

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### DIGEST

Agency may cancel a negotiated procurement based on the potential for increased competition or cost savings.

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### DECISION

Adrian Supply Company requests that we reconsider our dismissal of a request for reconsideration of our decision, Adrian Supply Co., B-237531, Feb. 12, 1990, 90-1 CPD ¶ 182, in which we denied Adrian's protest against the award of a contract to North Coast Electric Company under request for proposals (RFP) No. N00406-89-R-0805, issued by the Department of the Navy for two portable transformer/substations and support drawings, manuals and reports.

We affirm the dismissal.

In its initial protest, Adrian contended that North Coast had been permitted to deviate from the RFP specifications. We denied the protest because the record demonstrated that prior to submitting its best and final offer (BAFO), the awardee had submitted a letter to the contracting activity in which North Coast withdrew the relevant exceptions which it had previously taken.

Adrian then requested that we reconsider its protest on the grounds that since North Coast had withdrawn its earlier exceptions in a letter that was not specifically mentioned in North Coast's BAFO, that letter had no effect. Adrian later supplemented its request with a new allegation that, through contract modification, the agency was permitting the awardee to perform on the basis of the exceptions it had previously taken. We dismissed Adrian's request for

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reconsideration on May 21, 1990, because the agency terminated North Coast's contract for the convenience of the government and canceled the solicitation.

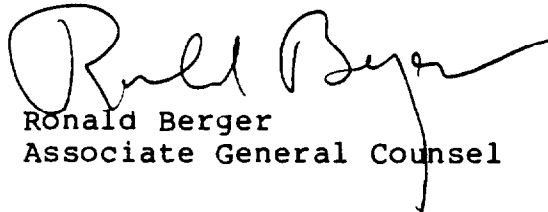
In this request for reconsideration, Adrian states that termination of the contract and cancellation of the solicitation was not the relief it requested, and asserts that our Office should require the agency to make an award to Adrian. The protester argues that the agency's cancellation of the solicitation does not resolve the issues under protest because the agency has not admitted it was wrong, nor has it admitted that it acted in bad faith.

Under FAR § 15.608(b)(4), a procuring agency may reject all proposals where cancellation is clearly in the government's best interest. Pursuant to this regulation, a procuring agency may cancel a negotiated procurement based on the potential for increased competition or cost savings. G.K.S. Inc., B-235208, Aug. 9, 1989, 89-2 CPD ¶ 117. Here, the Navy discovered after contract award that the specifications in the solicitation were out of date, and that revised standards which relax the requirements for the transformers may be used. Utilization of these less stringent requirements is expected to result in a cost savings to the government of several hundred thousand dollars, even after considering termination costs, under a procurement which had been awarded at a cost of \$1,429,000. Awarding a contract to Adrian under the more stringent requirements of this solicitation would leave the agency at the same place it was with North Coast under its contract; that is, with two portable transformer/substations that not only exceeded the agency's minimum needs, but also were much more expensive. Based on this potential for a cost savings, the agency acted reasonably in determining to cancel the solicitation. Id.

Adrian also alleges that the Navy will not properly conduct the future procurement. This allegation, however, is speculative and premature, as no solicitation has yet been issued. Pathlab, P.A.--Request for Recon., B-236363.2, Sept. 19, 1989, 89-2 CPD ¶ 247. Finally, Adrian's allegation that the agency has acted in bad faith is not supported by the record. There must be very strong proof that an agency has a malicious and specific intent to injure the protester before we may find bad faith. G.K.S. Inc., B-235208, supra. In this protest, Adrian has offered little

more than speculative comments suggesting that the Navy is biased towards North Coast, which does not provide any basis for a finding of bad faith.

The dismissal is affirmed.



Ronald Berger  
Associate General Counsel